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July 26, 1996

Our File No.
0803-106-63

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

JUL 26 '96

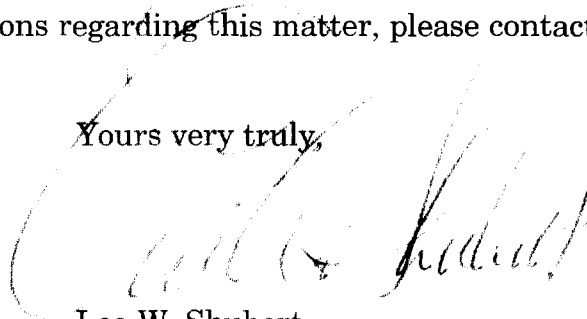
Re: Petition for Rule Making Gainesville and Corsicana, Texas

Dear Mr. Caton:

On behalf of Heftel Broadcasting Corporation, controlling stockholder of the permittee of KECS(FM), Gainesville, Texas and the licensee of KICI-FM, Corsicana, Texas, please find enclosed an original and four copies of a petition for rulemaking requesting among other things, a change of communities and facilities of these two stations.

Should you have any questions regarding this matter, please contact the undersigned directly

Yours very truly,



Lee W. Shubert

LWS/jb
Enclosures
cc(w/encl.):

Robert Hayne, Esquire
John Karousos, Esquire
Ms. Pamila Blumenthal

044
MMB

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D C 20554

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations.

MM Docket No.
RM No.

Gainesville, Lewisville, Corsicana,
Robinson, Jacksboro and
Mineral Wells, Texas

TO: Chief, Mass Media Bureau

JUL 26 1996

PETITION FOR RULE MAKING

Heftel Broadcasting Corporation ("HBC"), parent of the Permittee of FM Station KECS Gainesville (Channel 300C3) and of the licensee of Station KICI-FM (Channel 300C1) Corsicana, Texas, by its attorneys and pursuant to Section 307(b) of the Communications Act and Sections 1.420 (g) and (i) of the Rules, hereby requests the Commission to amend the FM Table of Allotments (Section 73.202(b) of the Rules) as follows:

CITY	PRESENT	PROPOSED
Lewisville, Texas	NONE	300C1 ¹
Gainesville, Texas	233C, 300C2	233C
Robinson, Texas	NONE	300A
Corsicana, Texas	300C1	None ²
Jacksboro, Texas	299A ³	237A
Mineral Wells, Texas	240C1 ⁴	240C3

¹ A reference location of N 33-17-33, W 97-13-46 will be required to satisfy spacing requirements. Exhibit 1, p.2. Exhibit 1 is the engineering report of HBC's consulting engineers, Cotrill & Holland.

² Station KAND, a fulltime AM station is also licensed to Corsicana and will remain if this proposed reallocation is authorized. See Exhibit 1, p. 2.

³ Although the FCC amended the Table by Report and Order in MM Dkt. No. 95-126, released May 7, 1996 substituting Channel 252A for 269A at Jacksboro (DA 96-677), on May 9, 1996 the FCC issued a Public Notice (Report No. 62842) in MM Dkt No. 96-10 proposing to substitute Channel 299A for 252A at Jacksboro.

⁴ Channel 240C1 was allocated to Mineral Wells in lieu of 240C3. See 7 FCC Rcd 1791(MMB 1992). A Construction Permit (BPH-920925ID) was issued for these new facilities but never was constructed. The CP expired on October 15, 1994, and was canceled by the FCC on December 13, 1994. (See Exhibit 1 p. 4.). KYXS-FM requested the allocation but continues to operate as a Class C3 station on Channel 240.

In support of this request, the following is respectfully submitted:

BACKGROUND

Subsidiaries of Heftel Broadcasting Corporation are the Licensee of Station KICI-FM Corsicana (Ch. 300C1) and the Permittee of Station KECS, Gainesville (300C2), Texas⁵. As the Commission's records reflect, KECS was acquired in August, 1994. However, as the result of a rule mandated holding period, HBC was not able to acquire KICI-FM until April, 1995. The Construction Permit for KECS was due to expire shortly after HBC acquired KICI-FM. In the Extension application (BMPH-950327JB), HBC explained that because KECS and KICI-FM were co-channel, any efforts to fully develop Channel 300 in this area needed to be deferred until HBC acquired control of both stations. Before a solution most consistent with the mandate of Section 307 (b) of the Communications Act was found, a number of alternatives had to be explored. Influencing the search were factors such as the congestion in the area and the additional constraints on the utilization of Channel 300 imposed by Station KOAI, Ft. Worth on Channel 298C1 and changes in several pending rule making proceedings, as well as allocations south of the Waco area.

After a number of false starts involving channel substitutions to avoid short spacing HBC found an allocation matrix that will permit KECS to bring a first transmission service to Lewisville, Texas, a community of over 52,000 persons outside of any urbanized area and a new program service to a population of over 2.8 million, while leaving Gainesville with a full-time AM and FM stations.⁶ Further, since KECS has yet to become operational, there would be no actual loss of service from such a reallocation. To accomplish this end, however, co-channel Station KICI-FM, Corsicana, Texas will have to be reallocated to the Waco, Texas, area. Corsicana will continue to have a full-time (AM) local service, while the reallocation of the channel will permit a first local service to Robinson, Texas, an independent community of over 7,000 persons. Although Robinson is within the Waco urbanized area, other factors establish that it is an independent community for allocations purposes.

⁵ A Construction Permit (BMPH-940126IF [BPH-880706MC as extended by BMPH-940317JA]) for operation as a Class C3 station is outstanding.

⁶ As reflected in the engineering report (Exhibit 1, p. 3) and discussed *infra*, Channel 300 is the only fully spaced FM channel available for allocation to Lewisville.

This Petition for Rule Making is submitted in accordance with HBC's commitment in the KECS Extension application and, it is believed, will result in a preferential arrangement of allocations in the north Texas area practically mandated by Section 307(b) of the Communications Act.

DISCUSSION

Section 1.420 (g)(3) and(i) of the Rules authorizes the Table of Allotments to be amended and modification of the license of an FM station to specify a higher class channel and a new community of license where the amended allotment would be mutually exclusive with the present assignment. The Commission has emphasized that such changes in the Table of Allotments must satisfy the objectives of 47 USC § 307(b).

To insure that our intent is clear, however, we hereby state unequivocally that Section 1.420(i) was adopted to further the Commission's long standing pursuit of the goals underlying Section 307(b) of the Act, and that any changes in the FM and TV Tables of Allotments must be consistent with those goals.

Modification of FM & TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094, 7095 (1990) on reconsideration ("*Recon. Order*") In this regard, the Commission emphasized, in light of the maturation of the FM Service, that as a practical matter providing a first local broadcast service to all communities of significant size (FM allocations priority 3) is now the highest allocation priority. *Recon. Order supra* 5 FCC Rcd at 7096. This proposed change in allotments satisfies all of the criteria and objectives set forth in the *Recon. Order supra*. Among other things, it brings a first broadcast transmission service to a community of over 52,000 persons outside of any urbanized area as well as a first transmission service to another independent community of over 7,000, and leaves local fulltime transmission services at both Gainesville and Corsicana.

Mutual Exclusivity

According to HBC's consulting engineers, Cotrill & Holland, the proposed allocation of Channel 300 to Lewisville, Texas, as a C1 is mutually exclusive with the present allocation of the Channel at Gainesville, Texas. Similarly, the proposed allocation of Channel 300 at Robinson, Texas is mutually exclusive with the present allocation of that Channel at

Corsicana, Texas. Finally, of principal importance, the reallocation of Channel 300 to Lewisville is mutually exclusive with the current allocation of that channel at Corsicana.⁷ Hence, not only do these proposed changes come within the purview of Section 1.420(i) of the Rules, but the reallocation of Channel 300 from Corsicana to the Waco area is essential in order to effectuate the only means by which Lewisville's more than 52,000 people can be provided with their first and only possible local broadcast service.

307(b) MANDATE IS SATISFIED

ALLOCATION CONSIDERATIONS AND OVERVIEW

In order to mandate this proposed allocation, the Section 307 (b) analysis, in broad terms, requires that the benefits to be achieved from the re allotment of *unbuilt* Station KECS from Gainesville to Lewisville and Station KICI-FM from Corsicana to Robinson will result in a preferential rearrangement of FM allotments. *Recon. Order, supra*. Because Stations KECS and KICI-FM operate on Channel 300 and are barely fully spaced, any movement of one of the allotments in the direction of the other requires a reciprocal movement of the other. Compounding the allocations problem are the constraints placed on both stations by Station KOIA (298C1) Fort Worth on the north and several stations south of the Waco urbanized area.

In examining the available areas to more fully utilize Channel 300, it was discovered that there were several communities of significant size south of Gainesville, outside of any urbanized area, without any licensed transmission facility where KECS could be reallocated. On the other hand, there are virtually no communities of significant size within the permissible allocations area and outside the Waco urbanized area where Station KICI-FM could be reallocated and at the same time satisfy spacing requirements. Consequently, it was determined to focus primarily on the reallocation of KECS and thereafter to relocate KICI-FM to an independent community of significant size within the permissible allocations area.⁸

⁷ Exhibit 1, pp. 1-2 reflects a distance of 66 kilometers between the KECS authorized location and the suggested reference point for Lewisville, whereas the required spacing for Class C2 and C1 co-channel stations is 224 kilometers. KICI-FM's licensed location is 73 kilometers from the Robinson, Texas, reference point, whereas the required spacing for Class A and C1 co-channel stations is 200 kilometers. *Ibid.*

⁸ Exhibit 1, p. 4 and Figures E-5 and E-8, reflect that the only community of significant size within a hypothetical 70dbu contour that does not penetrate the Waco Urbanized Area is Marlin, Texas. However,

A final factor in making the allocation choice is that Heftel programs its stations to serve primarily the Hispanic residents of its various service areas. Consequently, bringing its program service to areas with substantial Hispanic populations, particularly those areas presently without such service, was an important consideration ⁹

Based on the foregoing, it was determined that the primary allocation consideration was the need of Lewisville (population 52,000) for its first local transmission service. Although this change will require the removal of the theoretical third local service from Gainesville (KECS is unbuilt) and removing the second full-time aural service from Corsicana (population 29,000), it will permit the allocation of channel 300 to Robinson (population 7,000) as a first local transmission service

Further, tabulated below are the area and population gains and losses of 60 dbu or greater service that will result from the proposed changes in the Table of Allotments:¹⁰

STATION	PRESENT		PROPOSED		NET GAIN (LOSS)	
	Area	Population	Area	Population	Area	Population
KECS(CP)	5,439	68,347	16,313	2,941,838	16,313*	2,941,838*
KICI-FM	14,484	255,432	2,515	133,663	(11,969)	(73,347)
Total	19,923	323,779	18,828	3,075,501	5,656	2,868,491

*Since KECS is unbuilt, there will be no actual loss of service

There are at least five(5) reception services to all of the loss areas. Exhibit 1, Figure E-6.

FIRST LOCAL SERVICE FOR LEWISVILLE

This proposed change in the Table of Allotments will bring Lewisville its first local transmission service. Lewisville is an incorporated community with a population of over 52,000.¹¹ Lewisville is not within any urbanized area.¹²

Marlin already has its own local transmission service, KEYZ(FM) and 60 dbu service from this location would only be provided to 22,364 persons.

⁹ While the nature of a station's programming is generally not taken into account in making allocations, it has been a factor considered in at least one allocations proceeding. *Cf. Homestead-N. Miami Beach, FL* 10 FCC Rcd 13149, ¶4 (MMB 1995). In this case, the reallocation of KECS to Lewisville will bring Heftel's Hispanic programming to 419,291 Hispanics in the proposed service area. The move of KICI-FM to Robinson will result in a first Hispanic program service to the area and increase the service to Hispanics from 22,625 to 23,332 Exhibit 1 p.2 and Figure E-5

¹⁰ Exhibit 1 p. 2 and Figure E-5.

¹¹ Exhibit 2, p. 4. Exhibit 2 is statistical information published by the Lewisville Chamber of Commerce.

¹² Exhibit 1, p. 3

Lewisville Township was founded in 1855 and was incorporated in 1925. It has a city manager/city counsel form of government and has its own police department, a unified school district, hospital, a library, as well as 25 parks and recreational facilities. Moreover, Lewisville provides emergency, educational, health and community services to an area beyond the city limits of Lewisville involving 6 other communities. For example, the Lewisville Independent School District has 28,000 students attending 25 elementary, 9 middle and 3 high schools, as well as 17 private schools within the city limits of Lewisville and several surrounding communities. There is also a campus of North Central Texas (Community) College in Lewisville¹³. The city of Lewisville presently has two ZIP codes, 75029 and 75067.

The responsibilities of the Lewisville Fire Department (90 employees, including 34 paramedics and 15 vehicles) and the Lewisville Police Department (134 employees and 34 vehicles) also extend beyond the city limits. In addition, the 148 bed Lewisville Medical Center Hospital is the central health focal point for this same area. Exhibit 2, pp. 6 and 9.

Lewisville has a substantial business community with 1993 gross revenues of nearly \$2 billion. There are 36 businesses in Lewisville with 50 or more employees which employ over 13,000 people. The 70 manufacturers in Lewisville employ about 5,000 persons.¹⁴ There are two newspapers, the *Lewisville News* and the *Lewisville Leader*, over 80 churches and 140 civic organizations serve the Lewisville area. Exhibit 2, pp. 20-23. In short, Lewisville is a very large, thriving, central community with a demonstrable need for its own first local transmission service. This need far outweighs the loss to Gainesville (population 14,256¹⁵) of its third full-time aural service.

The closest permissible transmitter location for this proposed Lewisville allocation is 41 kilometers from the Dallas-Fort Worth urbanized area. Exhibit 1 p 3. Further, the predicted 70 dbu contour of the proposed allocation will encompass only 11.3% of the Dallas-Ft Worth urbanized area. *Ibid*. It follows, therefore, that since this proposed allocation is not "proximate" to the Dallas-Ft Worth urbanized area and its 70dbu contour will encompass less

¹³ Exhibit 2, pp. 3,6-7,10-11,12,14-17 and 19

¹⁴ Exhibit 2, pp. 24,25 and 34.

¹⁵ Rand McNally 1996 Road Atlas p. 127

than 50% of that area, the independent community analysis mandated by *Headland, AL and Chattahoochee, FL* 10 FCC Rcd 10352 (1995) is not required in this case.

FIRST LOCAL FM SERVICE FOR ROBINSON

This proposed change in the Table of Allotments will also bring Robinson its first local aural service. Robinson was incorporated in 1955 and has a population of 7,111. It has a mayor/city counsel form of government and has its own police department, a unified school district, a medical clinic providing emergency and outpatient services and its own weekly newspaper. The city of Robinson also provides other municipal type services to its residents and immediate surrounding area.¹⁶ It is thus clear that Robinson is an independent community and not just a "mere appendage" of Waco. *Gilbert and Coolidge, AZ* DA 96-377 released March 29, 1996, ¶8.

ROBINSON URBANIZED AREA CONSIDERATIONS

As previously mentioned, allocations constraints place much of the area where channel 300 can be reallocated to the south, within the Waco Urbanized area.¹⁷ Further, in those limited areas outside of the Waco Urbanized Area where channel 300 can be reallocated, there appears to be no community of significant size without its own local transmission service or importance to warrant such an allocation.¹⁸ Moreover, the move from Corsicana to the Waco urbanized area is dictated by Lewisville's need for a first outlet of local self expression and the narrow allocations area available. Thus, the first local service preference for Robinson is not being used as a basis to enter the Waco urbanized area.¹⁹ *Cf. Homestead - North Miami Beach, FL* DA 95-2385, released December 6, 1995, and *Bay St. Louis and Poplarville, MS* DA 95-2384 released December 6, 1995. Further, any such location outside the Waco Urbanized area would reduce the Hispanic population HBC intends to serve by as much as

¹⁶ Exhibit 3 is the affidavit of Nicholas Swezey setting forth the information he obtained from the Robinson Chamber of Commerce and Robinson City officials

¹⁷ See Exhibit 1, Figure 8

¹⁸ See Exhibit 1 p. 4 and Figures E-5 and E-8 and Note 8 *supra*.

¹⁹ The Waco urbanized area includes all of McClellan County. The geographic size of this urbanized area is also a limiting factor in the placement of this allocation

92%.²⁰ Finally, it is important to note that the predicted 70 dbu contour of the Robinson allocation will cover only 21% of the Waco Urbanized Area. Exhibit 1, p. 3. KICI-FM currently provides 60 dbu service to more than 35% of the Waco Urbanized Area, including 40% Waco itself. *Ibid.* Since, under the current *Headlands - Chattahoochee* guidelines, an independent community analysis is triggered only in those situations where the proposed 70 dbu service covers more than 50% of the subject urbanized area, no such analysis is required in this case.²¹ Even if such an analysis were deemed to be required, the above-discussed factors establish that Robinson is an independent community and entitled to the first local service priority.

OTHER ALLOCATIONS CONSIDERATIONS

In order to permit this clearly needed change in allotments, the pending counter proposal in MM Dkt. No. 96-10 to, in part, change the Class A allocation at Jacksboro, Texas, from Channel 252A to 299A should be modified to specify Channel 237A in lieu of 299A. In this regard, HBC wishes to emphasize, that this proposal is in no way intended to delay or interfere with the conclusion of that proceeding. The allocation at Jacksboro involves an unbuilt construction permit. Clearly, since the permittee has now requested the Jacksboro allocation be changed from 269A, to 252A, to 299A to facilitate its own allocations objectives, it can hardly be heard to complain if that allocation is changed one more time. This Change would facilitate a substantial Section 307 (b) mandated change in the Table of Allotments that will in no way impede or obstruct (i) the resolution of the allocations issues in MM Dkt. No. 96-10 or (ii) the proponent's stated allocations objectives. Channel 237A can be allocated at Jacksboro at the city reference point and, in fact, any of the three possible allocations at Jacksboro, other than 299A, would be compatible with the subject proposed changes in the Table of Allotments. Exhibit 1, p. 4.

However, in order to allot Channel 237A at Jacksboro, Texas, it will be necessary to return the vacant Channel 240C1 allocation at Mineral Wells, Texas, to Channel 240C3. These are the current operating facilities of the licensee of Station KYXS-FM, Mineral Wells and

²⁰ The proposed allocation at Robinson will bring a first Hispanic program service to 23,332 Hispanics, a reallocation outside of the Waco Urbanized Area on the other hand, would reach, at most, 1,815 Hispanics. Exhibit 1, p. 4 and Figure F-5.

were the allocated facilities until that licensee sought the upgrade to Class C1. As mentioned in Note 4 *supra.*, the licensee of Station KXYS-FM obtained the upgrade in 1992 (7 FCC Rcd 1791). The licensee was granted a Construction Permit (BPH-920925ID) for the Class C1 facilities, but elected not to construct. On December 13, 1994, the Commission canceled the Permit and the 240 C1 allocation has lain fallow since that time. Nearly two years have passed without any action on the part of the licensee, thus clearly demonstrating not only the lack of desire by the licensee for Class C1 facilities at Mineral Wells but, of greater importance, the lack of need for Class C1 facilities at that location.

CONCLUSION

In allocation situations involving more than one community, the Commission requires that all factors, pro and con, be taken into account in determining the mandate of Section 307(b) of the Communications Act.²² In this case, the fact that the re allotment of Channel 300 from Gainesville to Lewisville and Corsicana to Robinson, will bring a first local aural service to the independent communities of Lewisville and Robinson with populations of over 52,000 and 7,000, respectively (Priority 3), must be weighed against the actual loss to Corsicana (population 29,000) of its second local service, and the *theoretical* loss to Gainesville of its third such service (Priority 4). The loss areas are served by at least 5 other services. (Exhibit 1 p. 3). Adding to the side of the scales favoring the Lewisville/Robinson allocation of channel 300 are the facts that this reallocation will bring a new service to over 2.9 million people and a new Hispanic program service to over 420,000 Hispanics. (Exhibit 1, p. 2).

The need of Lewisville for its own outlet of local self expression, standing alone, outweighs the need of Corsicana to retain its second local *fulltime* service, or any other allocation factor or combination of factors in this case. The other factors mentioned above simply magnify the demonstrated compelling need for the proposed change in the table of allotments and establishes that the reallocations proposed herein will, in fact, result in a preferential arrangement of FM allotments.

²¹ *Coolidge and Gilbert AZ, supra.*

²² *Community Change in FM Cases*, 4 FCC Rcd 4870 and note 26 (1989). The channel change at Jacksboro from proposed 299A to 237A and the deletion of the vacant 240C1 allocation at Mineral Wells are not relevant, since neither involve any change in either existing or proposed service.

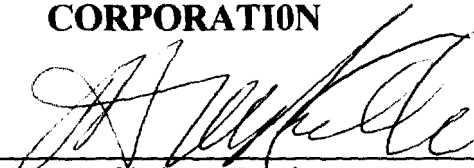
The foregoing conclusively demonstrates that the requirements of Section 1.420 (g)(3) and (i) of the Rules are satisfied and that this requested change in the Table of Allotments will further the objectives of Section 307(b) of the Act. The Commission is therefore requested to issue a Notice of Proposed Rule Making to change the Table of Allotments (73.202(b) of the Rules) as follows:

<u>CITY</u>	<u>PRESENT</u>	<u>PROPOSED</u>
Lewisville, Texas	NONE	300C1
Gainesville, Texas	233C, 300C2	233C
Robinson, Texas	NONE	300A
Corsicana, Texas	300C1	None
Jacksboro, Texas	299A	237A
Mineral Wells, Texas	240C1	240C3

The Commission is further requested to modify the Permit of Station KECS to specify operation on channel 300 as a Class C1 station with Lewisville as its licensed community and to modify the license of Station KICI-FM to specify operation on channel 300 as a Class A facility with Robinson, Texas as its licensed community. In the event this request is granted, HBC will promptly file applications to modify the authorized facilities of Stations KECS and KICI-FM and to modify the licenses of Stations KECS and KICI-FM to specify Lewisville and Robinson, Texas, respectively as their licensed communities.

Respectfully submitted,

**HEFTEL BROADCASTING
CORPORATION**



Lee W. Shubert, Esquire
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TECHNICAL EXHIBIT IN SUPPORT OF PETITION FOR RULE MAKING

**KECS - Gainesville, TX (300C3 CP) to Lewisville, TX (300C1)
KICI - Corsicana, TX (300C1) to Robinson, TX (300A)
Delete Mineral Wells, TX (240C1) - Vacant
KAIH - Jacksboro, TX (299A) to Jacksboro, TX (237A)**

Prepared on behalf of:

Heftel Broadcasting Corporation
(and its subsidiaries)

Prepared by:

James L. Sorensen
cottrill & holland, inc.

23 July 1996
Fort Lauderdale, Florida

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TECHNICAL EXHIBIT IN SUPPORT OF PETITION FOR RULE MAKING

**KECS - Gainesville, TX (300C3 CP) to Lewisville, TX (300C1)
KICI - Corsicana, TX (300C1) to Robinson, TX (300A)
Delete Mineral Wells, TX (240C1) - Vacant
KAJH - Jacksboro, TX (299A) to Jacksboro, TX (237A)**

SUMMARY

This exhibit was prepared to present the technical and statistical information on behalf of Heftel Broadcasting Corporation, and its subsidiaries, in support of a Petition to Amend the Table of Allocations (Section 73.202(b) of the Rules) filed with the Commission through its attorney's Haley, Bader & Potts, P.L.C.

The data herein show that Channel 300 is the only fully spaced FM allocation which can provide service to Lewisville, TX; that the proposed location at Lewisville is mutually exclusive to the present allocations of Channel 300 at both Gainesville, TX and Corsicana, TX; that the proposed re-location of KICI to Robinson, TX is mutually exclusive to the present allocation of Channel 300 in Corsicana, TX; that if the authority proposed in the Petition is granted that the proposed construction at Lewisville will not be mutually exclusive with the proposed construction at Robinson; that First Local Aural Service will result from the grant of both moves; and that while some loss of service area results from the move of KICI from Corsicana to Robinson there will be an overall increase in populations served at both locations in general and to the Hispanic Community as well.

MUTUAL EXCLUSIVITY

The proposed relocation of KECS from the Gainesville Construction Permit coordinates is mutually exclusive to the proposed Lewisville coordinates. The minimum distance required C2 (Allocation) to C1 is 224 km. The distance between the Construction Permit coordinates and the proposed coordinates is 66.078 km.

The proposed relocation of KICI from the Corsicana authorization is mutually exclusive to the proposed Robinson coordinates. The minimum distance required A to C1 is 200 km. The distance between the authorized coordinates and the proposed coordinates is 73.075 km.

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The proposed relocation of KECS to Lewisville is mutually exclusive to the authorized KICI facility. The minimum distance between C1 facilities is 245 km. The distance between the proposed Lewisville coordinates and the authorized facilities of KICI is 165.46 km.

The proposed allocations are not mutually exclusive since the minimum distance required A to C1 is 200 km and the proposed distance between the proposed coordinates is 205.266 km

Figures E-1 and E-2 (the individual channel / location spacing studies) show this information in tabular form

FIRST TRANSMISSION SERVICE FOR LEWISVILLE, TX AND ROBINSON, TX.

A review of Section 73.202(b) of the Rules (The Table of Allotments) and the current FCC database pertaining to AM and FM assignments shows that there is no existing or proposed AM or FM allocation to either Lewisville or Robinson. The same sources and other FCC records establish that Gainesville will continue to receive local transmission service from stations KDGE(FM), Channel 233C, and KGAF(AM), .250 kW, U, while Corsicana will continue to be served by KAND(AM), 1.0 kW, U. Thus, granting the Petition will supply First Aural Transmission Service to each community while leaving Gainesville and Corsicana with at least one local transmission service.

Figures E-3 and E-4 show the 70 dBu contours of both proposals and show conclusively that the predicted contours offer City Grade service to the respective communities. A site restriction with a reference location of 33 17 33 N x 97 13 46 W will be required to satisfy spacing requirements.

POPULATION AND AREA

Figure E-5 shows that a significant increase in population served, including Hispanic population, will result with the grant of the Petition.

The result of the allotment changes contemplated by the Petition shows that the total overall gain will be 2,800,144 persons of which 419,988 will be Hispanics. Specifically, moving the KECS allotment to Lewisville will result in a gain of 2,873,491 persons of which 419,291 will be Hispanics.

The reallocation of KICI-FM from Corsicana to Robinson will result in a withdrawal of service from 73,347 persons in an area of 11,969.4 sq. km. However, all portions of the loss area receives a minimum of five other full time services

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The land area gains and losses are shown in this same table

OTHER SERVICES TO LOSS AREAS

KECS, Gainesville. Since KECS has yet to be constructed there will be no actual loss of service by allotting Channel 300C1 to Lewisville. However, as reflected in Figure E-5, there will be a theoretical loss of service largely in rural Oklahoma. Examination of the relevant FCC databases establishes that at least five other stations provide primary service (FM = 60 dBu; AM = 0.5 mV/m) to all of part of the theoretical loss area. Figure E-6 is a listing of stations which provide primary service to the loss area

KICI-FM, Corsicana. Figure E-5 reflects the loss area that will result from re-allotting Channel 300 from Corsicana to Robinson. Examination of the relevant FCC databases establishes that at least five other stations provide primary service to all of any part of the loss area. Figure E-6 is a listing of the stations providing primary service to the Corsicana loss area.

ONLY CHANNEL 300 CAN MOVE TO LEWISVILLE

A comprehensive spacing study is attached hereto as Figure E-1 which shows that only Channel 300 can be allotted to Lewisville.

PROXIMITY TO URBANIZED AREAS

Figures E-3 and E-4 show the location of the 70 dBu contours of the respective proposed locations versus the urbanized areas of Dallas and Waco, individually

The Lewisville proposal produces a 70 dBu contour which includes approximately 11.3% of the Dallas Urbanized Area (240.5 sq. km. out of 2,112 sq. km.).

The nearest point of the Dallas Urbanized Area to the proposed transmitter location is 41.17 km.

The Robinson proposal produces a 70 dBu contour which includes approximately 21 % of the Waco Urbanized Area (569.87 sq. km. out of 2,698.58 sq. km.). [Waco Urbanized Area is reported as the entirety of McLennan County.]

KICI-FM currently provides primary service to approximately 35% of the Waco Urbanized Area including approximately 40% of the City of Waco.

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Figure E - 8 is a map reflecting the location within the permissible site area southeast of the Waco Urbanized Area where the hypothetical 70 dBu contour would not penetrate the Waco Urbanized Area. There is only one community of significant size within the hypothetical 70 dBu contour, Marlin, TX (pop 6,386). Marlin has its own transmission facility, Station KEYZ-FM (225A). In contrast to the 182,085 persons that will be served by the proposed allocation at Robinson, only 22,364 persons would be served (60 dBu or greater) from this hypothetical location.

VACATE MINERALS WELLS (240C1) ALLOCATE JACKSBORO FROM 299A TO 237A

There is a counter-proposal pending in MM Docket No. 96-10 which, in part, proposes to substitute Channel 299A for Channel 252A at Jacksboro, TX. There is an unbuilt Construction Permit for the Jacksboro allocation specifying operation on Channel 269A. All the proposed changes in the Table of Allotments at Jacksboro have been made at the request of the Permittee. The allocation of Channel 299A at Jacksboro will make the proposed allocation of Channel 300C1 at Lewisville short spaced.

However, Channel 237A would be available at Jacksboro, but for the vacant allocation of Channel 240C1 at Mineral Wells, TX. Commission records indicate that the Table of Allotments was changed at the licensee's request in 1992. According to Commission records, Construction Permit (BPH-920925ID) was granted for the Channel 240C1 facilities on April 13, 1993 and that the Construction Permit expired on October 15, 1994. Due to the licensee's apparent failure to construct these facilities, the FCC canceled the Construction Permit on December 13, 1994. Station KYXS-FM currently operates on Channel 240 at Mineral Wells as a Class C3 facility.

Returning the Channel 240 allocation at Mineral Wells to Class C3 will not conflict with the current operations of Station KYXS-FM and will permit the allocation of Channel 237A at the Jacksboro city reference point. Figure E-7 shows that the Mineral Wells allotment as a Class C3 will clear the Channel 237A proposal at Jacksboro.

CONCLUSION

There is no technical impediment to the granting of the proposals in the Petition, the increases in potential audience served, in particular the Hispanic audience, far outweigh the loss of some sparsely populated area.

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which would no longer be served, and the public interest would be well and properly served by making this grant

LIST OF FIGURES

E-1: Comprehensive Spacing Study, Lewisville City Reference

E-2: Comprehensive Spacing Study, Robinson Reference Coordinates

E-3: Map showing KECS 70 dBu contour from proposed Lewisville TL to Dallas Urbanized Area.

E-4: Map showing KICI 70 dBu contour at Robinson proposed location, impact of KICI on Waco Urbanized Area from both its present site and from the proposed location.

E-5: Population and Area Studies for both re-allocations showing gains and losses for each, and a net effect calculation.

E-6: Tabulation of other stations providing aural service to Gainesville and to Corsicana.

E-7: Spacing studies showing that Channel 237A can be placed at Jacksboro if unused Channel 240C1 is deleted at Mineral Wells, Lewisville proposed TL, Robinson proposed TL

E-8: Map showing Area to Locate near Robinson, TX and Hypothetical Site tangent to Waco Urbanized Area and Population and Area studies of Hypothetical Site.

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AFFIDAVIT

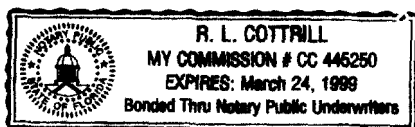
James Louis Sorensen, being first sworn and upon oath, deposes and says:

- 1) That he is an Engineer whose credentials are a matter of record in the Several States and before the Federal Communications Commission; and,
- 2) That he has regularly practiced in the field of radio and television engineering for more than twenty years; and.
- 3) That he is employed as Vice-President of Engineering by Cottrill & Holland, Inc. who have been retained by Heftel Broadcasting Corporation for the purpose of preparing this technical report in support of their instant petition to amend the FM Table of Allotments; and,
- 4) That the workproduct contained herein was prepared by him, or at his direction and under his immediate supervision, or was derived from sources the veracity of which he confirms, that this report accurately reflects the full scope of the proposal to which it pertains, and that the representations herein are true and correct of his own knowledge except for statements herein made on information and, as to such, he verily/believes them to be accurate and true

Further, the affiant saith naught.


James Louis Sorensen

Sworn and subscribed before me this 24TH day of JULY, 1996 by James L. Sorensen, who is personally known to me.



R. L. Cottrill
R. L. Cottrill
Notary Public, State of Florida

My Commission expires:

24 MAR 1999

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE

Latitude: 33 2 30

Channel: 200A

Longitude: 96 58 58

Database file name: D:\FCCDATA\FM960613.EDX

Pre-1989 Class A spacings?: N
Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
254C	KLUVFM	14744	Dallas	TX	LIC	160.9	32.6	29.0	3.6
203C1	KEOM	14753	Mesquite	TX	LIC	133.6	45.0	75.0	-30.0
254C	KLUVFM	14786	Dallas	TX	LIC	178.6	50.2	29.0	21.2
202C3	KJCR	15408	Keene	TX	LIC	204.9	77.8	42.0	35.8
201C1	KNTU	15414	Denton	TX	LIC	332.7	31.0	133.0	-102.0

***** End of channel 200 study *****

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE

Latitude: 33 2 30

Channel: 201A

Longitude: 96 58 58

Database file name: D:\FCCDATA\FM960613.EDX

Pre-1989 Class A spacings?: N
Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
254C	KLUVFM	14744	Dallas	TX	LIC	160.9	32.6	29.0	3.6
203C1	KEOM	14753	Mesquite	TX	LIC	133.6	45.0	75.0	-30.0
254C	KLUVFM	14786	Dallas	TX	LIC	178.6	50.2	29.0	21.2
202C3	KJCR	15408	Keene	TX	LIC	204.9	77.8	89.0	-11.2
204A	KTCUFM	15411	Fort Worth	TX	LIC	224.4	51.3	31.0	20.3
201C1	KNTU	15414	Denton	TX	LIC	332.7	31.0	200.0	-169.0
204C3	NEW	15443	Ardmore	OK	APP	353.1	129.8	42.0	87.8
201C2	KMSI	15470	Moore	OK	LIC	347.1	246.0	166.0	80.0
201C1	KGNZ	16319	Abilene	TX	LIC	252.8	269.5	200.0	69.5

***** End of channel 201 study *****

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE

Channel: 202A

Database file name: D:\FCCDATA\FM960613.EDX

Latitude: 33 2 30

Longitude: 96 58 58

Pre-1989 Class A spacings?: N
Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
205C1	KETR	14330	Commerce	TX	LIC	77.2	101.1	75.0	26.1
203C1	KEOM	14753	Mesquite	TX	LIC	133.6	45.0	133.0	-88.0
202C3	KJCR	15408	Keene	TX	LIC	204.9	77.8	142.0	-64.2
204A	KTCUFM	15411	Fort Worth	TX	LIC	224.4	51.3	31.0	20.3
201C1	KNTU	15414	Denton	TX	LIC	332.7	31.0	133.0	-102.0
256C	KDZR	15419	Denton	TX	LIC	305.7	66.6	29.0	37.6
256C	KDZR	15429	Denton	TX	CP	305.7	66.6	29.0	37.6
204C3	NEW	15443	Ardmore	OK	APP	353.1	129.8	42.0	87.8

***** End of channel 202 study *****

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE

Channel: 203A

Database file name: D:\FCCDATA\FM960613.EDX

Latitude: 33 2 30

Longitude: 96 58 58

Pre-1989 Class A spacings?: N
Reqd

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
204C1	KTPB	14276	Kilgore	TX	CP	112.8	197.8	133.0	64.8
205C1	KETR	14330	Commerce	TX	LIC	77.2	101.1	75.0	26.1
203C1	KEOM	14753	Mesquite	TX	LIC	133.6	45.0	200.0	155.0
204C2	NEW	14854	Ada	OK	APP	7.9	192.9	106.0	86.9
206A	KMQX	15407	Springtown	TX	LIC	264.5	67.8	31.0	36.8
202C3	KJCR	15408	Keene	TX	LIC	204.9	77.8	89.0	-11.2
204A	KTCUFM	15411	Fort Worth	TX	LIC	224.4	51.3	72.0	-20.7
201C1	KNTU	15414	Denton	TX	LIC	332.7	31.0	75.0	-44.0
256C	KDZR	15419	Denton	TX	LIC	305.7	66.6	29.0	37.6
256C	KDZR	15429	Denton	TX	CP	305.7	66.6	29.0	37.6
204C3	NEW	15443	Ardmore	OK	APP	353.1	129.8	89.0	40.8

***** End of channel 203 study *****

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE Latitude: 33 2 30
 Channel: 204A Longitude: 96 58 58
 Database file name: D:\FCCDATA\FM960613.EDX Pre-1989 Class A spacings?: N
 Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
204C3	KTPB	14275	Kilgore	TX	LIC	112.8	197.8	142.0	55.8
204C1	KTPB	14276	Kilgore	TX	CP	112.8	197.8	200.0	-2.2
205C1	KETR	14330	Commerce	TX	LIC	77.2	101.1	133.0	-31.9
207C1	KNON	14750	Dallas	TX	LIC	178.9	50.1	75.0	-24.9
203C1	KEOM	14753	Mesquite	TX	LIC	133.6	45.0	133.0	-88.0
158C	KPLX	14758	Fort Worth	TX	LIC	179.2	51.0	29.0	32.0
204C2	NEW	14854	Ada	OK	APP	7.9	192.9	186.0	26.9
206A	KMQX	15407	Springtown	TX	LIC	264.5	67.8	31.0	36.8
202C3	KJCR	15408	Keene	TX	LIC	204.9	77.8	42.0	35.8
204A	KTCUFM	15411	Fort Worth	TX	LIC	224.4	51.3	115.0	-63.7
201C1	KNTU	15414	Denton	TX	LIC	332.7	31.0	75.0	-44.0
204C3	NEW	15443	Ardmore	OK	APP	353.1	129.8	142.0	-12.2
205C		15913	Brownwood	TX	VACANT	232.5	238.6	165.0	73.6
204A	NEW	15957	Wichita Falls	TX	APP	203.9	173.2	115.0	58.0
204A	NEW	15960	Wichita Falls	TX	APP	204.7	178.0	115.0	63.0

***** End of channel 204 study *****

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE Latitude: 33 2 30
 Channel: 205A Longitude: 96 58 58
 Database file name: D:\FCCDATA\FM960613.EDX Pre-1989 Class A spacings?: N
 Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
205C1	KLDN	13703	Lufkin	TX	LIC	130.5	276.7	200.0	76.7
204C1	KTPB	14276	Kilgore	TX	CP	112.8	197.8	133.0	64.8
208C1	KVNE	14292	Tyler	TX	LIC	108.3	174.2	75.0	
205C1	KETR	14330	Commerce	TX	LIC	77.2	101.1	200.0	-98.9
207C1	KNON	14750	Dallas	TX	LIC	178.9	50.1	75.0	24.0

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE

Latitude: 33 2 30

Channel: 207A

Longitude: 96 58 58

Database file name: D:\FCCDATA\FM960613.EDX

Pre-1989 Class A spacings?: N
Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
208C1	KVNE	14292	Tyler	TX	LIC	108.3	174.2	133.0	41.2
205C1	KETR	14330	Commerce	TX	LIC	77.2	101.1	75.0	26.1
207C1	KNON	14750	Dallas	TX	LIC	178.9	50.1	200.0	-149.9
260C3		14797	Farmersville	TX	ADD	60.8	64.4	12.0	52.4
209C1	NEW	14805	Sanger	TX	APP	2.1	57.5	75.0	-17.5
260A		14808	Blue Ridge	TX	ADD	62.0	61.2	10.0	51.2
260C3		14824	Greenville	TX	ADD	78.3	86.4	12.0	74.4
209C1	NEW	14827	Sanger	TX	APP	2.1	57.5	75.0	-17.5
208A	KYQX	15405	Weatherford	TX	LIC	247.4	83.1	72.0	11.1
206A	KMQX	15407	Springtown	TX	LIC	264.5	67.8	72.0	-4.2
204A	KTCUFM	15411	Fort Worth	TX	LIC	224.4	51.3	31.0	20.3
204C3	NEW	15443	Ardmore	OK	APP	353.1	129.8	42.0	87.8
207A	NEW	15448	Sulphur	OK	APP	359.4	165.6	115.0	50.6
208C3	KMOC	15949	Wichita Falls	TX	LIC	303.9	173.3	89.0	84.3
207A	KCCU	15972	Lawton	OK	LIC	306.3	312.2	115.0	97.2

***** End of channel 207 study *****

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE

Latitude: 33 2 30

Channel: 208A

Longitude: 96 58 58

Database file name: D:\FCCDATA\FM960613.EDX

Pre-1989 Class A spacings?: N
Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
208C1	KVNE	14292	Tyler	TX	LIC	108.3	174.2	200.0	-25.8
205C1	KETR	14330	Commerce	TX	LIC	77.2	101.1	75.0	26.1
207C1	KNON	14750	Dallas	TX	LIC	178.9	50.1	133.0	-82.9
211C	KERA	14752	Dallas	TX	LIC	176.9	51.4	95.0	-43.6
262C	KRBV	14775	Dallas	TX	LIC	178.5	50.6	29.0	21.6
262C	KRBV	14785	Dallas	TX	CP	177.9	50.7	29.0	21.6

209C1	NEW	14805	Sanger	TX APP	2.1	57.5	133.0	-75.5
209C1	NEW	14827	Sanger	TX APP	2.1	57.5	133.0	-75.5
208A	KYQX	15405	Weatherford	TX LIC	247.4	83.1	115.0	-31.9
206A	KMQX	15407	Springtown	TX LIC	264.5	67.8	31.0	36.8
207A	NEW	15448	Sulphur	OK APP	359.4	165.6	72.0	93.6
208C3	KMOC	15949	Wichita Falls	TX LIC	303.9	173.3	142.0	31.3

***** End of channel 208 study *****

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE	Latitude: 33 2 30
Channel: 209A	Longitude: 96 58 58
Database file name: D:\FCCDATA\FM960613.EDX	Pre-1989 Class A spacings?: N
	Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
208C1	KVNE	14292	Tyler	TX	LIC	108.3	174.2	133.0	41.2
207C1	KNON	14750	Dallas	TX	LIC	178.9	50.1	75.0	-24.9
211C	KERA	14752	Dallas	TX	LIC	176.9	51.4	95.0	-43.6
262C	KRBV	14775	Dallas	TX	LIC	178.5	50.6	29.0	21.6
262C	KRBV	14785	Dallas	TX	CP	177.9	50.7	29.0	21.7
209C1	NEW	14805	Sanger	TX	APP	2.1	57.5	200.0	-142.5
209C1	NEW	14827	Sanger	TX	APP	2.1	57.5	200.0	-142.5
208A	KYQX	15405	Weatherford	TX	LIC	247.4	83.1	72.0	11.1
206A	KMQX	15407	Springtown	TX	LIC	264.5	67.8	31.0	36.8
208C3	KMOC	15949	Wichita Falls	TX	LIC	303.9	173.3	89.0	84.3
209C2	KACU	16334	Abilene	TX	LIC	256.9	262.8	166.0	96.8

***** End of channel 209 study *****

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE	Latitude: 33 2 30
Channel: 210A	Longitude: 96 58 58
Database file name: D:\FCCDATA\FM960613.EDX	Pre-1989 Class A spacings?: N
	Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
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210C1	KDAQ	13187	Shreveport	LA LIC	97.2	288.9	200.0	88.9
208C1	KVNE	14292	Tyler	TX LIC	108.3	174.2	75.0	
207C1	KNON	14750	Dallas	TX LIC	178.9	50.1	75.0	-24.9
211C	KERA	14752	Dallas	TX LIC	176.9	51.4	165.0	-113.6
213C1	NEW	14791	Greenville	TX APP	79.4	88.0	75.0	13.0
209C1	NEW	14805	Sanger	TX APP	2.1	57.5	133.0	-75.5
213C1	NEW	14813	Greenville	TX APP	79.4	88.0	75.0	13.0
209C1	NEW	14827	Sanger	TX APP	2.1	57.5	133.0	-75.5
208A	KYQX	15405	Weatherford	TX LIC	247.4	83.1	31.0	52.1
264C3	KRJTFM	15424	Bowie	TX LIC	311.1	102.7	12.0	90.7
213A	KBTT	15428	Bridgeport	TX CP	279.1	65.9	31.0	34.9

***** End of channel 210 study *****

***** FM CHANNEL SPACING STUDY *****

Job title: LEWISVILLE CITY REFERENCE Latitude: 33 2 30
Channel: 211A Longitude: 96 58 58
Database file name: D:\FCCDATA\FM960613.EDX Pre-1989 Class A spacings?: N
Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
208C1	KVNE	14292	Tyler	TX	LIC	108.3	174.2	75.0	
212C1	KBJS	14295	Jacksonville	TX	CP	124.4	190.8	133.0	57.8
211C	KERA	14752	Dallas	TX	LIC	176.9	51.4	226.0	-174.6
213C1	NEW	14791	Greenville	TX	APP	79.4	88.0	75.0	13.0
209C1	NEW	14805	Sanger	TX	APP	2.1	57.5	75.0	-17.5
213C1	NEW	14813	Greenville	TX	APP	79.4	88.0	75.0	13.0
209C1	NEW	14827	Sanger	TX	APP	2.1	57.5	75.0	-17.5
208A	KYQX	15405	Weatherford	TX	LIC	247.4	83.1	31.0	52.1
264C3	KRJTFM	15424	Bowie	TX	LIC	311.1	102.7	12.0	90.7
213A	KBTT	15428	Bridgeport	TX	CP	279.1	65.9	31.0	34.9
211C1	KCSC	15467	Edmond	OK	LIC	351.4	294.0	200.0	94.0
211C1	KCSC	15499	Edmond	OK	CP	350.8	284.6	200.0	84.6

***** End of channel 211 study *****